

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LENDAL R. SMITH III,

Plaintiff,

v.

Civil No. 02-0446 WJ/KBM

THOMAS E. WHITE, Secretary
of the Army, Agency,

Defendant.

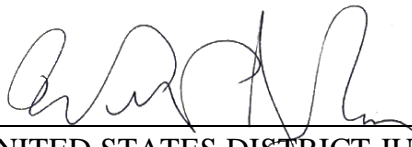
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court *sua sponte*. On February 13, 2003, this Court denied Plaintiff's motion for default judgment on the basis that Defendant was not properly served. Doc. 17. At the time that Order was entered, Plaintiff had already been afforded two opportunities to effectuate service under Fed.R.Civ.P.4(e). The Court allowed Plaintiff thirty additional days in which to serve Defendant, cautioning Plaintiff that failure to do so could result in a dismissal of this case.

The Court docket indicates that on February 27, 2003, summons was issued as to White Sands Missile Range Judge Advocate General & Secretary of the Army and that a Return of Service filed on March 24, 2003 (Doc. 18). However, Plaintiff has still failed to comply with the requirements of Rule 4 in serving an agency of the United States. Plaintiff's *pro se* status does not excuse his failure to follow the fundamental rules of civil procedure. See Ogden v. San Juan County, 32 F.3d 452, 455 (10th Cir. 1994), cert. denied, 513 U.S. 1090 (1995). Therefore,

IT IS ORDERED that this case be dismissed without prejudice pursuant to Fed.R.Civ.

4(m).



UNITED STATES DISTRICT JUDGE